

REMARKS/ARGUMENTS

This Amendment is in response to the Final Office Action mailed February 21, 2008.

In the Office Action, claims 1, 7-12, 18-23, and 29-32 stand rejected under 35 U.S.C. § 102(e).

Reconsideration in light of the remarks made herein is respectfully requested.

Rejection Under 35 U.S.C. § 102

Claims 1, 7-12, 18-23, and 29-32 stand rejected under 35 U.S.C. § 102(e) as being allegedly anticipated by U.S. Patent No. 7,020,893 issued to Connelly (hereinafter Connelly).

Applicant respectfully submits that the Examiner's 35 U.S.C. § 102(e) anticipation rejection of Applicant's independent claims 1, 12, and 23 is improper because the claimed subject matter relied upon is not by another.

In particular, 35 U.S.C. § 102(e) recites:

...the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a *patent granted* on an application for patent *by another* filed in the United States before the invention by the applicant for patent...(emphasis added).

Thus, 35 U.S.C. § 102(e) requires that claim limitations may only be anticipated and rejected based upon disclosure in a patent by another.

In the instant case, Applicant's independent claims include claim limitations directed to...a content rating table that includes at least a rating value and a rating type for broadcasted data files...wherein the rating value is a combination of a relevance value and a believability factor...the relevance value corresponding to a likelihood that a user will want to watch the broadcasted data file based on the descriptions of the meta-data and the believability factor is a waiting factor corresponding to the accuracy of past relevance value determinations, and the

rating type indicates whether the rating value is generated explicitly based upon the prior explicit input from the user or implicitly generated without prior explicit input from the user...

The above-described claim limitations relating to content rating tables were originally created by the common inventor J.H. Connelly in U.S. Patent No. 7,020,893, as explicitly described and shown in Figures 5-13, and the associated text of U.S. Patent No. 7,020,893. J.H. Connelly was the solo inventor of U.S. Patent No. 7,020,893.

Accordingly, these claim limitations are not developed by another as required by 35 U.S.C. § 102(e).

Because these claim limitations were not created by another, Applicant respectfully submits that the 35 U.S.C. § 102(e) rejection is improper.

Applicant respectfully requests that the Examiner remove this ground for rejection and allow Applicant's independent claims 1, 12, and 23, and the dependent claims that depend therefrom, and pass these claims to issuance.

Conclusion

In view of the remarks made above, it is respectfully submitted that pending claims 1, 7-12, 18-23, and 29-32 are allowable over the prior art of record. Thus, Applicant respectfully submits that all the pending claims are in condition for allowance, and such action is earnestly solicited at the earliest possible date. The Examiner is respectfully requested to contact the undersigned by telephone if it is believed that such contact would further the examination of the present application. To the extent necessary, a petition for an extension of time under 37 C.F.R. is hereby made. Please charge any shortage in fees in connection with the filing of this paper, including extension of time fees, to Deposit Account 02-2666 and please credit any excess fees to such account.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: 5/14/2008

By


Eric T. King
Reg. No. 44,188
Tel.: (714) 557-3800 (Pacific Coast)

Attachments

1279 Oakmead Parkway,
Sunnyvale, CA 94085-4040